

**January 15, 2009**  
**Davenport Public Hearing**

**John Kulper:** My name is John Kulper, I'm with the Windland Quarries and the Iowa Limestone Producers Association. Let's see, there's been a lot of discussion today that's included our industry in here already so, it's great that we get a chance to talk here. One thing we need to...I want to address right away is that there's nobody here today and nobody that I can imagine is going to stand and argue against water quality or protection from degrading our streams. And that's not what myself or my industry or anyone else is here to do. What we're trying to do is be part of a process and help folks like Adam who have this Herculean task to try and get a process in place that's going to do what it's intended to do and that's what we're here for. Right now we're, let's see, questions have been asked from the folks here in the other public hearings that I've attended, there's a lot of little hiccups and bumps and things, and I'm not digging Adam, and Adam understands that, he knows how this process goes. We've got to work with the tools you're given and this is a process, it's a very complicated and it's gonna take a lot of work and hopefully the right folks some creative ideas and there we get something that will work. It's, certainly the reason we're here is to not stand and just say no, no, no, you've got to offer solutions, and one of the...I'll be making some formal submissions as well prior to the close of the comment period. But you guys just squashed all my stuff I was going to talk about that's been discussed prior to my getting up here. One of the issues that we have is that when...in order to manage a problem, whatever that problem may be, you have to be able to measure it, you have to know what you've got and you need to know where you're going with it. There's a lot of unknowns right now, one of the shortcomings of the procedure that's presented currently is that for some of the water bodies that are affected, a good number of them we simply don't know. There's a lot of unknowns. Antideg and to this point, only addresses constituents within the discharge, it doesn't address what they're being discharged into. We're talking about the dilution and the process of looking at the quality of the discharge on the receiving body that means we have available to us to do that is through measurement of concentrations. We don't count as molecules per say. We count things that we see, what percentage or what part per million or per billion in some cases, chemicals of concerns, are in the discharge. Okay well when we look at this concept of mass loading, there is a big problem with our industry especially, we're taking groundwater that we really don't care to have and we're trying to give it back to the folks of the state and its inherent that certain things in the groundwater exist that we don't put there, that we don't have any in any way impact the quality and we're dealt with this problem of antidegradation and when we're talking about a discharge from a quarry, whose basically getting rid of groundwater that is has a part or two or three of nitrates and we're discharging a million gallons a year into a creek that may not, may be very small, and we are in fact improving the quality of that receiving stream. Beyond a shadow of a doubt, there's no sound way in which you can argue that in most cases. Now antidegradation, if you happen to be on a tributary to a two and a half designated stream, it's going to be pretty tough to make improvements to existing water quality. It's going to be tough, and it's going to mean spending money before you find out that you can't do it. And one thing I think that the process needs to have looked into is kind of a bypass or when you characterize your discharge, you find that it meets water quality standards, you find that it's especially if its drinking water quality then, a further process I think can be short-cut to yeah, discharge. You're gonna improve stream quality, go ahead. It won't be true for all constituents, certainly, but I think there's room in the process to do that. I'm holding here

because we're in Davenport, the water quality report for 2007 for Clinton and the quad-cities. And one thing I want to make sure that everybody understands, is that these antidegradation rules are in essence holding water discharge to standards higher than our drinking water standards. If your stream is a 2.5 designation, the city, the quad-cities couldn't discharge their water because of nitrate levels. You can drink it but you can't discharge it, because it's got that molecule of nitrates in it. And yes eventually you could get there, should it get there, but...not,...but not initially. That's the hiccup. And I think everything else I had to say has been covered. That'll be it for me.

**Mike Carberry:** Thanks Adam. I'm Mike Carberry, I'm from Iowa City and I'm a member for the Sierra Club, I'm chair of the Iowa City Sierra Group Club of the Sierra Club and I sit on the executive committee of the State Sierra Club. I grew up in this state, doing a lot of, spent a lot of time in the water fishing, paddling, skinny dipping, whatever you have and really enjoyed the Iowa Water Quality when I was a child. As I moved into adulthood, that changed a lot, spent a lot of time in the water and started getting sick every time I came out of the water, maybe the next day with mysterious flu-like symptoms, not sure if it was from the e-coli or what exactly was in the water that was making me sick, but anytime I fished, or spent a lot of time in the water, I would end up being sick and it really hit home a few years ago, I've been a professional environmental advocate for almost five years and started doing a lot of creek cleanups and that sort of stuff where you'd spend an entire day pulling shopping carts and bicycles and other garbage that other people had disposed into the creeks. And then I would be sick for a couple of days, and I know it wasn't the bicycle that made me sick, it was being up to my eyeballs in water fishing that stuff out. Water Quality is very important and I applaud the DNR and the EPC for addressing this in their antidegradation rules, so that's just some general, I think that all water quality in the state of Iowa should be addressed and not maybe just the outstanding waterways but of course they're very important and I definitely support the Outstanding Iowa Waters list. But I strongly object to the hundred and fifteen percent threshold test, you talk about there being a lab test, I think that that hundred and fifteen percent is kind of laughable, because with just a little bit of paper juggling, you can exceed that hundred and fifteen percent and kind of get yourself around it. The importance and necessity and affordability are the T2 protection balancing criteria required by the Clean Water Act. Not impractically, pathetically low one hundred and fifteen percent threshold test. Also, I think its important that we requires a strong linkage between point source requests for increased pollution loads and vigorous best management practice compliance by all other point source and non-point source pollution contributors in the watershed. It is important that the DNR know that we want to keep the antidegradation rules as strong as possible and protective as the law allows, not watered down, and that's pretty much my comments, and again I thank you for having these hearings and for getting all across the state to get public comments. I look forward to possibly submitting some written comments.

**Brad Klein:** Brad Klein, I'm an attorney at the Environmental Law Center, we're located in Chicago, but we work on Water Quality Standard Issues around the Midwest and we have worked in Iowa for many years with our colleagues at the Iowa Environmental Council and Hawkeye Fly Fishing and other groups as well. Again, I just want to thank DNR and the leadership at the EPC and the public outreach that's taken place on these rules. We feel these are very important rules that are, they're not optional rules, they're legally required under the Clean

Water Act and implementing regulations and so, we're pleased that Iowa's going to be taking the next step to come into compliance with the Act. We, I'm going to keep my comments very brief and just touch on a couple of things that require a little more clarity in the current draft and provide some more in detailed written comments on these issues. But one thing I want to do is I know there's been a lot of discussion about the tier 2.5 level of protection, the Outstanding Iowa Waters issue which is very important and I'm glad it's getting a lot of attention. I want to make sure that these general tier 2 level of protection for all Iowa Waters isn't forgotten however, and isn't lost in the shuffle. Tier 2 protection is very important as a way for the public in Iowa to engage in decisions that affect water quality in their communities and requires a review before water quality is lowered and before degradation occurs that that degradation is actually necessary that there aren't alternatives that could avoid it. And actually would result in important social and economic development, and we see this tier 2 antidegradation review process as a great way for members of the public and others in the community to engage in collaboration and cooperation with the state and with dischargers and industry. And a good way to have a dialogue up front about different alternatives and different ways to avoid pollution, and have it be a conversation that takes place up front rather than having confrontations down the road and having to lay down the road. So we're really pleased that the rules do address this and we think that's an important thing to keep focus on because it does cover all of Iowa waters. I want to just mention a couple of things that I think requires a little more attention in the remaining rulemaking process and hopefully some more clarity in the rule. We touched on one of these already today, the application of tier 2 protection to general use stream segments, and it sounds like I'm hoping that the rule language can be clearer so there aren't misunderstandings about what level of protection is provided to general use streams and we can work on that. The other thing that I think requires a little more detail in conversation is the application of tier 2 protection in the 404 and 401 certification process. How that actually works, what it looks like, how the alternatives to for example, to dredge and fill projects that would require an Army Corp 404 permit and a 401 certification by the state, are brought up in public comment and hopefully in the same way that there is a dialogue between the applicant and the public before an application goes in on a section 402 permit or a discharge permit. That same conversation could happen with respect to 404 permits so that alternatives can be identified up front and that we avoid having lengthy delays and keep the processes as efficient as possible. I think the application of antidegradation protection to general permits and stormwater permits as well as something that's complicated but also requires some more conversation and a little more clarity in the rules. And there is also a section in the current draft on antidegradation and TMDLs. I think that's less than clear at this point and probably we could do some more work on that as well. With that I, again, really appreciate the opportunity to speak and have these public hearings so thanks to the DNR and the EPC and we look forward to filing more detailed comments in writing.

**Ryan Maas:** First I want to thank DNR staff and the Commissioner for attending, making the effort to schedule these hearings and doing what I feel to be a pretty good job of distributing information to the public for us to educate ourselves about this. And I am going to submit a more technical response in writing. My comments today are more to provide a little context to my position personally. I'm here as a member and also the Vice President of the Hawkeye Fly Fishing Association, I also serve as a board member of an Iowa City Nature Academy called Halfly Nature Experience which provides opportunities for kids to either after school, during school breaks those things to get out in nature. And I'm not speaking on their behalf, it just

provides a lens through which I understand the need for children to be outside around water in a safe and as well as a high quality experience. In the summer, obviously I'm a fly fishing enthusiast. So in the summer I can be found wet wading, that's how I prefer to fish in the summertime and a lot of streams everywhere from the Cedar River to some of the premier trout streams in Iowa, and in fact looking at what I've seen, as what's labeled as Appendix B, Outstanding Iowa Waters, which includes the Great Lakes, and I don't know if that's an older version or what, but in going through there, I've personally fished about fourteen of the streams, I'd like to fish them all, but I go to Wisconsin by the way to fish quite a bit because there is stronger permanent protection and greater access those sorts of things for those streams. So I only have so many days in the year that I can enjoy them. I've also enjoyed a number of streams that are not on the list, and probably I'll numerate those in the written comments. In the fall I'm an avid water fowler, so I chase ducks pretty much wherever they can be found across the state and they happen to like water, so I'm around water quite a bit throughout the year. This year will mark the first year that I expect to take my four year old daughter with me on many of these ventures, places we go rely on the preservation for the prevention of further degradation of these areas. As I mentioned earlier, I'm a strong supporter of having children outside and experiencing nature, they in turn become advocates or conservation and protection in the years to come as well as funding sources for the conservation measure they'd like to accomplish. But they need first of all, non-harmful opportunities, that is they need to be able to go to natural areas, water, that sort of things where they're not going to get sick, where they're not going to be threatened by either some sort of chemical or bacterial impairment and then what's the use of going to a natural area or a stream or a lake or a wetland if it simply doesn't have an aquatic community and a healthy ecology to study to enjoy to learn from. So not only does it have to be not harmful, but also high quality and I think that the antidegradation regulations and rules move us further in that direction, obviously we can do more but they move further in that direction so they need to be as strong as possible with due process incorporated and I think they do that. As anglers, and me personally as an angler, and I think as a group, the first thing that we care about is the...either access to or the possibilities of lost opportunities for lost recreation. This doesn't just mean I don't have the power, that I would have fewer places to go or lower quality of places to go, but it also means that in those communities throughout say northeast Iowa lost dollars at the gas station. I know that whenever I go there I try and buy as many birders and beers as possible and that would become less if you multiply my experience by about the number of angling trips that are taken up there. Which is another point that I want to make and I'll expand on it in written comments that the economic benefits of clean water certainly in the cost analysis that was provided in the DNR website seems to be given short credit, and the economic benefits of having clean water either as ecological assets that draw economic development, draw the knowledge workers of tomorrow are looking for places where clean water is abundant and recreational opportunities are available, and that has not been quantified and should be quantified not only in adopting these rules but also when an analysis is done on new permits. I already talked about economic benefits, lost opportunities for recreation, another thing if I'm a volunteer, and I'm going to take a possible fishing day in the summer to do habitat improvement in the stream and I know that two or three years down the road a polluter may be able to diminish the equality of that stream, the extent that my restoration work and volunteer hours are fruitless, I will have less incentive to spend that, I might go to a Hawkeye football game instead. If the potential for the resource to be degraded through pollution is high, the incentive to do restoration work which depends on volunteers will diminish certainly. I guess to just conclude, I want to be

clear, polluters do have the right to discharge in the water held in the public trust, the people through our regulatory agency, the commission, the DNR in this case through the regulatory agency allow it. It's a license, it's a privilege, it should always be viewed as such, accordingly, the antidegradation rules are overdue, they must be kept strong, they must not be watered down, Iowans pride themselves in being accountable for their actions, and I challenge Iowans to step up and prove that perspective to be right. I do want to...one other concluding statement, I support the 2.5 Outstanding Iowa Waters list, I think that needs to be included as critical because I personally, I see the nomination process flawless to be a loosery. I'll provide other written comments. Thank you.

**Jerry Knapp:** My name is Jerry Knapp, I live in Pleasant Valley, I'm with the Sierra Club, I just want to say a few things, Iowa has a good reputation for quality of life here, and I think that is reflected in our water quality, I'd like to make sure that that gets better at least stay the same but I'd like to see it be improved. One thing I would like to address is economic necessity, I would just like to stress that the economic benefits of clean water must be given full and proper consideration in any economic necessity analysis. So we just want to make sure that you look on both sides and look at what the advantages are of clean water and what that can do for the state.